

**UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT**

MELINDA SCOTT,	
	Appellant,
v.	
WISE COUNTY DEPARTMENT OF	
SOCIAL SERVICES, <i>et al.</i> ,	
	Appellees.

**4<sup>th</sup> Cir. Case No. 21-2006**

**Va. W.D. Case No. 2:20-cv-14**

**JOSHUA MOON'S  
REPLY IN FURTHER SUPPORT OF  
SECOND MOTION TO DISMISS**

NOW COMES Defendant/Appellee Joshua Moon, by counsel, and submits this Reply in Further Support of his Motion to Dismiss the Plaintiff/Appellant's second appeal in this matter, which was noted on September 27, 2021 (ECF No. 81). In further support of this Motion, Mr. Moon states as follows:

- 1) The Plaintiff/Appellant's own response illustrates that she is appealing non-final orders and is attempting to proceed *in forma pauperis* in violation of the plain language of Fed. R. App. P. 24 (a)(3)(A) and Fed. R. App. P. 24 (a) (5).
- 2) To the extent that the Appellant baldly claims that "It is the district court of the Western District of Virginia who issued an order in "bad faith", Ms. Scott's response is sorely lacking in any evidence or indicia of "bad faith"

on the part of the presiding U.S. District Judge or Magistrate Judge. Ms. Scott may well disagree with the lower court, as all appellants do, but mere disagreement does not erase the controlling determination of the lower court that an appeal was taken in bad faith nor indicate that the lower court itself acted in bad faith. Ms. Scott's habit of accusing jurists who rule against her of bad faith is unfortunate, but it is not new.

- 3) To the extent that Ms. Scott apparently concedes in her brief that "ministerial or administrative" orders that are entered by the District Court post-judgment are not "final" orders capable of appeal to this Court, the Appellant undermines her own argument. In this case, she has appealed a decision granting a motion to extend a deadline, which is inarguably ministerial or administrative in nature. Ms. Scott has not, and cannot, appeal a "final" order granting or denying the underlying motion that Mr. Moon was granted additional time to file, because the District Court has not yet ruled on that motion.
- 4) Ms. Scott has also appealed a ruling that her initial appeal was taken in bad faith, which ruling operates as a revocation of the Appellant's *in forma pauperis* status under Fed. R. App. P. 24 (a)(3)(A) and 28 U.S.C. §1915 (a)(3). Assuming, *arguendo*, that a revocation of *in forma pauperis* status is ever reviewable by way of a Notice of Appeal rather than under Fed. R.

App. P. 24 (a)(5), the Revocation of *in forma pauperis* status is itself administrative in nature and relates only to whether a claimant must pay court fees. The mere revocation of *in forma pauperis* status does not dispose of the merits of the case or even the merits of any substantive matters in dispute that may arise post-judgment.

WHEREFORE, Appellee Joshua Moon respectfully requests that this Court dismiss the appeal(s) noted by Ms. Scott on September 27, 2021 on the grounds that Ms. Scott is attempting to appeal non-final orders, and for all the other reasons stated in his motions.

Respectfully submitted this the 14<sup>th</sup> day of October, 2021,

JOSHUA MOON

**By Counsel:**

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### **Certificate of Service**

I hereby certify that I will file a true and correct copy of the foregoing document with the Court's CM/ECF system, which will electronically serve counsel of record. I have also deposited a true and correct copy of the foregoing document into the U.S. Mail, with First Class postage prepaid, directed to:

Melinda Scott  
2014PMB87  
Post Office Box 1133  
Richmond, VA 23218

Dated: October 14, 2021

/s/Matthew D. Hardin  
Matthew D. Hardin  
*Counsel for Joshua Moon*

### **Certificate of Compliance**

I hereby certify, pursuant to Fed. R. App. P. 32 (g), that this Reply complies with the type volume limitation. It is, exclusive of the items listed in Fed. R. App. P. 32 (f), 483 words in length. I have relied upon Microsoft Word's word processor to establish that count.

Dated: October 14, 2021

/s/Matthew D. Hardin  
Matthew D. Hardin  
*Counsel for Joshua Moon*